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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,168	06/18/2001	Alan Drimmer	10257/13	3146

7590 05/27/2003
BRINKS HOFER GILSON & LIONE
P.O. Box 10395
Chicago, IL 60610

EXAMINER

HARRIS, CHANDA L

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 05/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/884,168

Applicant(s)

DRIMMER, ALAN

Examiner

Chanda L. Harris

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6,18/01,4/21/03.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 11-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 17-24 is/are rejected.
- 7) ☒ Claim(s) 1 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of Group 1 in Paper No. 7 is acknowledged. The traversal is on the ground(s) that Groups I and II are readily searchable together. This is not found persuasive because Group I requires a search in grading/scoring area and Group II does not require such a search.

The requirement is still deemed proper and is therefore made FINAL.

Claim Objections

Claim 1 is objected to because of the following informalities:

- Line 6: "classification classifications" needs to be corrected.
- Line 12: "a" should be "an".

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 5-7 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not exactly clear what is meant by a

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“nutshell” “a nutshell classification”, or “nutshell presentations” from Applicant’s specification. Explanation and support from the specification is required.

2. Claim 17: Applicant discloses the monitor establishing a benchmark performance level for corresponding ones of the performance classifications. However, monitors are used for displaying and viewing purposes as opposed to executing programming steps, so it is not clear as to exactly Applicant is trying to claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 8-10, and 17-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Layng et al. (US 6,523,007).

1. [Claims 1,17]: Regarding Claims 1 and 17, Layng discloses classifying student performance into discrete performance classifications associated with corresponding activities (i.e. number of correct clicks); establishing a benchmark performance level for each of the performance classifications (i.e. threshold number of correct clicks); measuring an observed student performance level for at least one of the performance classifications (i.e. tracking the number of correct clicks). See Col.11: 7-10. Layng

discloses determining whether the observed student performance level is compliant with the established benchmark performance level for the at least one performance classification. See Col.11: 65-Col.12: 7. Layng discloses identifying an instructive feedback (i.e. correction subroutine) for the individual based upon any material deviation of the observed student performance level from the benchmark performance level and an identity of the at least one performance classification of deficient student performance (i.e. two (or any number n) of consecutive incorrect clicks or "misses)". See Col.11: 54-59. Layng discloses a monitor (i.e. display screen) in Col.4: 49-53.

2. [Claims 2,18]: Regarding Claims 2 and 18, Layng discloses wherein the discrete performance classifications comprises at least one of assignments, problem, self-assessment tests, scenarios, course content overviews, subject summaries, student communications, course participation, guided problems, presentations, multimedia presentations, audio presentations, and visual presentations (i.e. redisplay or otherwise re-present the correct element). See Col.11: 49-52.

3. [Claims 3, 19]: Regarding Claims 3 and 19, Layng discloses wherein the measuring includes tracking a number of clicks of a pointing device associated with a particular student terminal in the discrete performance classifications. See Col.11: 7-10.

4. [Claims 4,20]: Regarding Claims 4 and 20, Layng discloses wherein the benchmark performance level for each performance classification represents a range of student clicks, bounded by a minimum acceptable number of clicks (i.e. 0) and a maximum acceptable number of clicks (e.g. 12 clicks or other threshold). See Col.11: 31-33 and Col.12: 1-5.

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5. [Claims 8,21-22]: Regarding Claims 8 and 21-22, Layng discloses wherein the determining detects that a particular student has successfully completed a self-assessment test or task and wherein the instructive feedback comprises congratulating the particular student on completing the self-assessment test or task (i.e. playing a reward (such as an animation) or positive feedback) to the child. See Col.11: 43-44 and Col.12: 1-4.
6. [Claims 9,23]: Regarding Claims 9 and 23, Layng discloses wherein the instructive feedback comprises a corrective action (i.e. correction subroutine) to improve an identified deficiency of the student in the electronic course. See Col.11: 54-59.
7. [Claims 10,24]: Regarding Claims 10 and 24, Layng discloses maintaining a database containing student identifiers, observed performance levels associated with the student identifiers, performance classification identifiers associated with the student identifiers, and benchmark performance levels associated with the student identifiers, and benchmark performance levels (e.g. exit criteria) associated with at least one corresponding electronic course. See Col.19: 18-35. Student identifiers would have been an inherent feature of the database in Layng's invention.

Citation of Pertinent Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Walker et al. (US 5,947,747)
-computer-based education testing

- Tatsuoka (US 6,301,571)
 - interacting with a test subject
- Truluck et al. (US 6,353,447)
 - study planner system and method
- Bullen (US 6,033,226)
 - machining tool
- Barrett et al. (US 2002/0098468)
 - pre-determined pass and fail threshold scores
- Lee et al. (US 5,788,508)
 - remedial material
- Wasowicz et al. (US 2002/0076677)
 - diagnostic system
- Freeman et al. (US 6,301,462)
 - adaptive assessment
- Walker et al. (US 2003/0087223)
 - educational testing
- Aspe et al. (US 2002/0187463 A1)
 - adaptive teaching system
- Wallace et al. (US 2002/0160347)
 - tailored diagnostics and remediation

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chanda L. Harris whose telephone number is 703-308-8358. The examiner can normally be reached on M-F 6:30am-4:00pm.

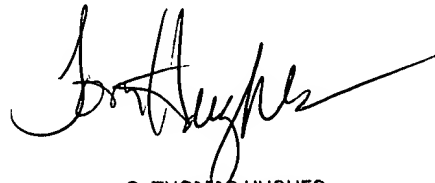
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

ch.

ch.

May 19, 2003



S. THOMAS HUGHES
SUPERVISORY PATENT EXAMINER
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